



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,711	08/15/2001	Jeffrey Thomas Kiesler	9D-DW-19834	1659

7590

04/10/2003

John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Sq.
St. Louis, MO 63102

EXAMINER

CHAUDHRY, SAEED T.

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/930,711

Applicant(s)

KIESLER ET AL.

Examiner

Saeed T Chaudhry

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1746

DETAILED ACTION

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I, Claims 1-10, drawn to dishwasher and a method for controlling operation of a dishwasher, classified in Class 134, subclass 18.

Group II, Claims 11-14, drawn to a kit comprising a turbidity sensor, classified in Class 134, subclass 113.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions has different effects and function such as kit requires a turbidity sensor, wherein the process and apparatus do not require a turbidity sensor or the turbidity kit can be used in a cloth washer or to be used in a water treatment plant.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, the search required for any one group of claims is not required for any of the other groups of claims, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Thomas M. Fisher on March 6, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-10. Affirmation of this election must be made by applicant in responding to this

Art Unit: 1746

Office action. Claims 11-14 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

Joint Inventors

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Claim Objections

Claims 1, 2, 4, 7 and 8 are objected to because of the following informalities: Claims recite a recitation "sufficient water" It is advise that it should be -- sufficient amount of water -- . Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (c) he has abandoned the invention.
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.
- (f) he did not himself invent the subject matter sought to be patented.
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Art Unit: 1746

Claims 1-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alvord.

Alvord (5,803,985) discloses a control system for a dishwasher (10) utilizing a turbidity sensor (24) to achieve an optimum fill cycle water level in a sealable chamber (12) into which soiled dishes are loaded. An electronically actuable fill valve (20) is controlled by a microprocessor (22) in response to signals received from the sensor (24) indicative of the turbidity of water in the chamber (12) during the fill cycle. Once turbidity of the water in the chamber stabilizes or drops to a predefined level, the fill water is determined to have reached an optimum level and the flow of supply water is shut off (see abstract). Using a turbidity sensor, the scattering effect of suspended particulate matter is monitored in order to determine when the pump is receiving enough water and when the water supply should be shut off (see col. 2, lines 10-13). the level of turbidity is monitored through the fill process. When the amount of turbidity decreases below a certain predetermined level or reaches a certain level of stability, a signal from the turbidity sensor indicates to the dishwasher controller that a sufficient amount of water has been received and that the controller should signal the fill valve to close(see col. 2, lines 41-47). Generally sensor 24 includes a light source and one or more light sensitive sensors, between which water from chamber 12 is passed. This sensor is preferably disposed in a well formed in the bottom of chamber 12, or alternately in sump 14, or in any position conducive to measuring the turbidity of incoming fill water. Sensor 24, irrespective of type, outputs an electrical signal to

Art Unit: 1746

controller 22 which is indicative of the sensed level of turbidity (see col. 3, lines 21-34). water flow may be stopped at a point wherein turbidity has decreased to a specified level such as indicated at 34a. At this point the designated cycle (wash, rinse, etc.) can continue. Turbidity generally increases along segment 34 as dirt or other sediments enter the water as it is being removed from the dishes being washed. In the case where turbidity never reaches a predetermined minimum amount or doesn't reach a defined level of stability, the controller preferably fills the wash chamber to a predetermined maximum level (see col. 4, lines 2-11).

Since the reference discloses that where turbidity never reaches a minimum amount the controller fills the wash chamber to a maximum level. Which inherently turn off the wash cycle and fill the chamber to a maximum level. Further, the reference discloses that sensor 24 outputs an electrical signal to the controller. Therefore, it is anticipate the transitioned from first to second condition.

As the water reaches the sensor 24, an increase in scattering due to the line between water and air is sensed as low frequency at 26. As water rises above sensor 24, frequency rises at 28. During this time, valve 20 is opened to allow an unrestricted flow of water into chamber 12 (see col. 3, lines 42-47). Therefore, the reference discloses to generate a signal if the sensor is in air or in water.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (703) 308-3319. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 5:00 P.M.

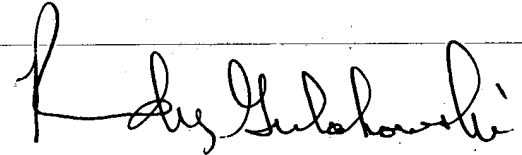
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Gulak wski Randy, can be reached on (703)-308-4333. The fax phone number for this Group is (703)-305-7719.

Art Unit: 1746

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Saeed T. Chaudhry
April 2, 2003



RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700